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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 26 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

1998 Biennial Regulatory Review -- Amendment of
Parts 2, 25 and 68 of the Commission's Rules to
Further Streamline the Equipment Authorization
Process for Radio Frequency Equipment, Modify the
Equipment Authorization Process for Telephone
Terminal Equipment, Implement Mutual Recognition
Agreements and Begin Implementation of the Global
Mobile Personal Communications by Satellite
(GMPCS) Arrangements

GEN Docket No. 98-68

REPLY COMMENTS OF ORBCOMM

Orbital Communications Corporation ("ORBCOMM") hereby replies to some of the comments on the Commission's proposed modification of its equipment authorization processes to further streamline the regulatory requirements and to account for international developments -- the adoption of mutual recognition agreements and the adoption of global mobile personal communications by satellite ("GMPCS") arrangements.¹ In its initial comments on the *Notice*,

¹ 1998 Biennial Regulatory Review -- Amendment of Parts 2, 25 and 68 of the Commission's Rules to Further Streamline the Equipment Authorization Process for Radio Frequency Equipment, Modify the Equipment Authorization Process for Telephone Terminal Equipment, Implement Mutual Recognition Agreements and Begin Implementation of the Global Mobile Personal Communications by Satellite (GMPCS) Arrangements, Notice of Proposed

ORBCOMM supported the Commission's efforts to streamline the equipment approval process, and in particular the adoption of interim procedures for equipment approval to begin implementation of the GMPCS Arrangements. In addition, ORBCOMM urged the Commission to apply those proposed interim procedures so as to protect the Global Positioning Systems ("GPS") satellites and receivers from harmful interference caused by GMPCS subscriber terminals operating in the 1610-1626.5 MHz band. The commenters in this proceeding generally concur with ORBCOMM.

Several other parties supported Commission adoption of the proposed interim procedures for equipment approval. These parties recognize that such procedures will serve as a means of implementing and taking advantage of the new GMPCS MOU arrangements, and thereby facilitate the rapid, global availability of these beneficial satellite services.² In addition, several other commenters shared ORBCOMM's concern that the interim equipment approval procedures not be limited to the Big LEO satellite systems.³ GMPCS covers a wide variety of services, including the Big LEO and Little LEO satellite systems,⁴ and the benefits of the interim

Rulemaking, GEN Docket No. 98-68, FCC 98-92, released May 18, 1998 (hereafter cited as "*Notice*"). On August 4, 1998, the Commission extended the Reply Comment date to August 26, 1998.

² *E.g.*, TIA Comments at p. 13; Lockheed Martin Comments at p. 2; Motorola Comments at pp. 13-14; Iridium Comments at p. 3; ICO Comments at p. 2.

³ *E.g.*, Lockheed Martin Comments at pp. 2-3; ICO Comments at p. 3.

⁴ *Cf.*, *Notice* at n. 1 (GMPCS is defined to include "any satellite system (i.e., fixed or mobile, broadband or narrow-band, global or regional, geostationary or non-geostationary, existing or planned) providing telecommunications services directly to end users from a constellation of satellites.")

procedures implementing the GMPCS Arrangements should be extended to all of the potential satellite systems.

The record also supports ORBCOMM's position with regard to the protection of GPS. Other commenters agree that the interim equipment approval procedures must ensure that handsets operating in the 1610-1626.5 MHz band limit their out-of-band emissions so as to avoid interference to GPS.⁵ There was some disagreement on the precise out-of-band emission limits that ultimately should apply, with some commenters asserting the NTIA-proposed limits are too stringent, while others claim they are too lax.⁶ ORBCOMM agrees with the commenters who believe that those issues are best addressed in the separate rulemaking the Commission indicated it would initiate in response to the NTIA petition.⁷

One commenter opposed the Commission's proposal to allow interim equipment certification as a means of hastening the global availability of these satellite services.⁸ That position can readily be dismissed, however, insofar as the commenter is merely attempting to slow the progress of other satellite system licensees who have gained a "head start" by reason of having been licensed earlier and therefore initiated construction sooner. In fact, the public interest would be disserved if the GMPCS services were needlessly delayed in an effort to handicap the competitors so they all arrive at the finish line at the same time.

⁵ *E.g.*, Rockwell Comments at p. 4; Iridium Comments at p. 5; Raytheon Comments at p. 1; Orbital Comments at p. 1.

⁶ *See, e.g.*, U.S. GPS Council Comments, LSC Comments, AMSC Comments, CCI Comments.

⁷ *E.g.*, TIA Comments at p. 15; Motorola Comments at p. 16.

⁸ MCHI Comments at p. 6.

Equally spurious is Leo One's thinly-veiled attempt to use this proceeding to handicap ORBCOMM and limit its own regulatory obligations. Leo One in its comments seeks to have the Commission vitiate ORBCOMM's blanket license for subscriber communicators, while also eliminating Leo One's own obligation to obtain a blanket license.⁹ ORBCOMM urges the Commission to reject Leo One's requests.

In obtaining its blanket license, ORBCOMM was required to demonstrate compliance with all of the technical specifications for the Non-Voice, Non-Geostationary Mobile Satellite Service ("NVNG MSS"), including limits on the emissions, duty cycle, duration of transmissions and types of transmissions.¹⁰ Thus, in this regard the blanket license subsumes the role of the equipment approval process, and there is no basis for Leo One's request that blanket license holders be required to comply with the (duplicative) equipment approval procedures. Rather, current holders of blanket licenses should be able to continue to rely on those licenses.¹¹

Leo One would have the Commission place additional regulatory burdens on ORBCOMM (in the form of mandatory certification and recertification of subscriber

⁹ Leo One Comments at pp. 3-4.

¹⁰ Some three years ago, the Commission granted ORBCOMM a blanket license for up to 200,000 user transceivers pursuant to Section 25.115(d) of the Commission's Rules. *Orbital Communications Corporation*, Blanket Subscriber Terminal Authorization, 10 FCC Rcd 6572 (1995).

¹¹ On the other hand, ORBCOMM has no objection to allowing manufacturers voluntarily to obtain equipment approval in order to take advantage of the benefits of the GMPCS Arrangements. Cf., Iridium Comments at p. 8 ("Iridium seeks confirmation that the interim and proposed future certification procedures for Mobile Earth Terminals (METs) for GMPCS systems are voluntary and do not affect existing blanket licenses."). In its initial comments in this proceeding, ORBCOMM suggested that the Commission clarify that manufacturers or service providers could continue to rely upon their blanket licenses while they pursued equipment approval. ORBCOMM Comments at p. 8.

transmitters, and an inability to rely upon the already-issued blanket license) in order to allow Leo One to attempt to catch up with ORBCOMM's competitive advantages. However, in this case ORBCOMM's first-to-market advantages have been earned by reason of its significant efforts in initiating the rulemaking proceeding that created the NVNG satellite service, obtaining global and domestic allocations for this service, and expending the resources necessary to design, develop, construct, launch and operate its satellite system.¹² ORBCOMM has legitimately earned its head start in the marketplace, including its earlier receipt of a blanket license for its subscriber transceivers, and should not be penalized for its efforts.¹³

ORBCOMM also disagrees with Leo One's assumption that the Commission will eliminate the requirement for blanket licensing for the NVNG MSS user transceivers. ORBCOMM maintains that blanket licensing is still necessary to guarantee that there will be someone responsible for ensuring that user transceiver operations comply with Commission specifications and obligations, consistent with the requirement in Section 301 of the Communications Act that operation of a radio device be pursuant to an FCC license.¹⁴ The alternative, of requiring each individual customer to obtain a Commission license, is impractical and burdensome. Although the equipment approval process serves some of the purposes of the

¹² ORBCOMM was licensed ahead of Leo One because it filed its application more than three years ahead of Leo One. Moreover, Leo One cannot complain about any delays in receiving its license because of the difficulty of resolving the second processing round, since the delays in that proceeding were largely the result of Leo One's own intransigence.

¹³ Cf., United States v. Grinnell Corp., 384 U.S. 563, 570-571 (1966)(antitrust laws do not proscribe market share acquired through "growth or development as a consequence of a superior product, business acumen, or historic accident.").

¹⁴ 47 U.S.C. § 301.

blanket license requirement, it does not substitute fully for that process. Thus, the Commission should reject Leo One's attempt to eliminate its obligation to obtain a blanket license for its subscriber transceivers.


ORBCOMM additionally urges the Commission to reject Leo One's attempt to inject irrelevant and speculative coordination issues into this rulemaking proceeding.¹⁵ The Commission's equipment approval procedures are intended to ensure compliance with the Commission's technical rules for the service, and thereby prevent harmful interference and/or health and safety concerns. The equipment approval process is not the place to address particular satellite system coordination issues that Leo One anticipates. Leo One's issues presumably will be addressed in the context of inter-system coordinations (and the pending applications for review of the new entrants' licenses).

In sum, the record supports ORBCOMM's positions in this proceeding. ORBCOMM thus continues to urge the Commission to adopt its proposal to permit interim equipment approval for GMPCS subscriber transceivers, as clarified in ORBCOMM's initial comments. ORBCOMM also urges the Commission to adopt the interim specifications for protection of

¹⁵ Leo One Comments at p. 4.

GPS. Finally, ORBCOMM urges the Commission to reject various commenters' attempts to inject unnecessary and irrelevant issues into this proceeding.

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Dated: August 26, 1998

CERTIFICATE OF SERVICE

I, Mary-Helen Dove, hereby certify that on the 26th day of August, 1998, a true copy of the foregoing reply comments of ORBCOMM was delivered to each of the following:

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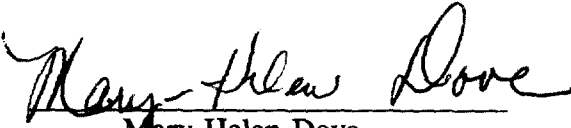
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